IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10044 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE D.N.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MANSUKHLAL MAKANJI SHAH

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 10044 of 1999

MR DM THAKKAR for Petitioner No. 1

MS ARCHNA RAVAL, AGP for Respondents.

CORAM : HON'BLE MR.JUSTICE D.N.PATEL

Date of decision: 06/05/2004

ORAL JUDGEMENT

1. This writ petition is preferred by the petitioner under Articles 226 and 227 of the Constitution of India,

whereby the petitioner challenges the action of the respondents of canncelling the licence and confiscation of deposit of the petitioner vide order dated 7th October,1997, as confirmed in Revision Application No. 14 of 1998 vide order dated 6th November, 1999 confirming the original order dated 25th March,1996 passed by the District Supply Officer, Jamnagar.

2. Learned advocate appearing for the petitioner submitted that the order passed by the District Supply Officer, Jamnagar dated 9th June 1997 is de-hors to the law and against the evidence as he has not considered the defence of the petitioner. Factually, the conclusions arrived at by the District Collector, Jamnagar are, prima facie, illegal, erroneous and wrong and there is no breach of the conditions of the licence on the part of the petitioner as referred in the order of the District Collector, Jamnagar. Learned advocate for the petitioner also contended that the Revisional Authority has also not appreciated the defence raised by the petitioner and the documents produced by the petitioner before the District Collector, Jamnagar. Therefore, the conclusions arrived at by the Revisional Authority vide its order dated 6th November , 1999 are also illegal, erroneous and wrong and hence the same deserve to be quashed and set aside. Being aggrieved by the order of the Revisional Authority the petitioner has preferred the present writ petition before this Court.

3. It is contended by the learned Assistant Government Pleader that both the authorities below have arrived at true, correct and legal conclusions on the basis of the facts found out of them and there is consistency so far as finding of fact is concerned recorded by both the authorities below.

4. It is averred by the learned Assistant Government Pleader appearing for the respondents that while checking the fair-price shop of the petitioner on 2nd August, 1995, it was found that stock of 1100 kg. of wheat was available at the fair-price shop of the petitioner which was absolutely unauthorisedly kept by the petitioner and how the said stock of wheat was in his possession, the same was not explained by the petitioner at all. Therefore, there were sufficient reasons to believe that the petitioner was unauthorisedly keeping the stock of wheat of quantity of 1100 kg. at his fair-price shop for doing unauthorised business for the same. Similarly, there were also irregularities committed by the petitioner as to keeping huge quantity of wheat at his fair-price shop. Both the misconducts and irregularities

committed by the petitioner have been referred in the order of the Revisional Authority which is produced a ANNEXURE-B to the memo of the petition. The authorities below have arrived at the conclusion that the petitioner has committed breach of the licence and the petitioner was unauthorisedly selling huge quantity of wheat. Similarly, the authorities below have also come to the conclusion that the huge quantity of wheat was kept by the petitioner at his fair-price shop unauthorisedly. For the previous irregularities, illegal action and breach as well as for black marketing the petitioner was sentenced and was ordered to undergo imprisonment.

5. I have carefully gone through the facts and circumstances of the case, material on record and the orders passed by the authorities below. The conclusions arrived at by both the authorities below are found to be legal, just, correct and proper. There is no error apparent on the record of the case in the orders of the authorities below. The finding of fact is consistent by the authorities below. I, therefore, see no reason to take any deviation from the conclusions arrived at by the both the authorities below. Therefore, the petition fails and the same is dismissed. Rule is discharged, with no order as to costs.

(D.N. Patel, J.)

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